IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FOURTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 13227 of 1996

Between:

Major P.V.V. Vidyasagar S/o.Late Krishna Murthy
Defence Service, R/o.Secunderabad.

..... PETITIONER

AND

1 Union Of India Rep by its Secretary for Defence
South Block , New Delhi
2 Chief of the Army Staff
Army Head Quarters, Sena Bhavan New Delhi-11.
3 Commandant , MCME
Tirumalgiri , Secunderabad.
4 Sub-Area Commander
Head Quarter 71 Sub Area C/o.56 APO.
5 Government of Madhya Pradesh ,Rep by its Secretary for School Education
Bhopal, Madhya Pradesh.
6 Divisional Superintendent of Education
Bhopal division , Bhopal , Madhya Pradesh.

7 Corps Commander, Head Quarter 2 Corps, C/o.56 APO

8 Commanding Officer, 451 Armoure Troops Workshop C/o.56 APO

(R7 and R8 are impleaded as per court Order dated 4.2.2005 dated in W.P.M.P.No.4375 of 1998)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a

writ of Mandamus or any other appropriate writ or order or direction in the nature of writ declaring the order No.2007/4/A1 Dt: 16-2-96 of the 4th respondent as illegal , arbitrary and in violation of Art.14 of the Constitution of India and to set aside the same and to direct the respondents 1 to 4 to the date of Birth of the petitioner as 7-9-62 as shown in the Date of Birth Certificate dt: 30-11-78 issued by Kovvur Municipality in his service records and to grant all consequential benefits.

Counsel for the Petitioner : MR.S.KRISHNA

Counsel for Respondent Nos.1 to 4: MR.RAMA KRISHNA RAO,SC FOR UNION GOVERNMENT

Counsel for Respondent Nos.5 & 6 : None appeared

The Court made the following ORDER:

The writ petition is filed to declare the order No.2007/4/A1 dated 16.2.1996 of the 4th respondent as arbitrary, illegal and in violation of Article 14 of the Constitution of India and for a consequential direction to the respondent Nos. 1 to 4 to alter the date of birth of the petitioner as 7.9.1962 instead of 14.5.1961.

It is the case of the petitioner that as on the date of filing of the writ petition he was a Major serving the Indian Army. He belongs to Kovvuru in West Godavari District, Andhra Pradesh. He is the 3rd child to his parents and born on 7.9.1962. His birth took place at his parental house and not in any hospital. At the time of joining the school, some date was entered in the school records as his date of birth happened to be 14.5.1961 instead of 7.9.1962 which is the correct date of birth. This mistake was realized when he submitted an application for higher secondary school examination which was being sent by the Principal of the School. Therefore, his father took steps for alteration of the petitioner's date of birth by filing M.P.No.1494 of 1978 before the II Additional Judicial Magistrate of First Class at Kovvur and the said petition was heard and an order was passed on 28.11.78 directing the municipal authorities, Kovvur to register the dates of birth of his sister and himself as 22.10.1960 and 7.9.1962 respectively. Thereafter, he completed his higher secondary school as well as graduation and joined in the Indian Army as a major on 24.8.1984. But, it is curious to note that from 28.11.1978 to 24.8.1984, the petitioner has not moved his little finger to correct his date of birth in the concerned SSLC Register by approaching the concerned Board.

It is the contention of the petitioner that his father made several requests to the concerned educational authorities at Bhopal for making necessary corrections in the

records but the authorities have not acceeded to his request. Thereafter, he joined in the Army. After joining the department, he made a representation for alteration of his date of birth, on the basis of the order passed in M.P.No.1494 of 1978 by the II Additional Judicial Magistrate of First Class, Kovvur. The army authorities have rejected the same through the impugned order 25.1.1996 stating that no request will be entertained after lapse of two years from the date of grant of first commission in the case of commissioned officers and from the date of enrolment in case of JCOs/other ranks. Obviously, petitioner joined the service on 24.8.1984 in the Indian Army and he made a petition only on 23.7.1990. It was more than about six years by that time. Therefore, in view of the instructions contained in the Memorandum No.757/D(MS)/5046-M/D(Coord) dated 23.6.1954 and 35(1)/A/67/D (Coord) dated 21.4.1964, Government of India, Ministry of Defence, the case of the petitioner was rejected on the ground that the change of date of birth of the commissioned officers shall not be entertained after more than two years after entering into the service. These instructions are not challenged in this writ petition.

The case of the petitioner may be a genuine one, but he never got his S.S.L.C Register changed though there was time of more than six years before joining the Indian Army for getting necessary corrections in the records. In fact, even according to the petitioner, his request was rejected by the S.S.L.C Board. Further, there was also delay in approaching the concerned authorities and the same was dismissed. Unless the SSLC/SSC record is changed the petitioner cannot get any relief whatsoever. I am of the considered opinion that the authorities have not committed any infirmity in rejecting the case of the petitioner for alteration of date of birth calling for interference by this Court.

The writ petition is devoid of merit and the same is liable to be dismissed and it is accordingly dismissed.

However, this order will not preclude the petitioner from pursuing any other remedy, as available to him under law.

(C.V.RAMULU, J)

04.02.2005

bsv

To

1. The Secretary for Defence
Union of India, South Block , New Delhi
2 The Chief of the Army Staff
Army Head Quarters, Sena Bhavan New Delhi-11.
3 The Commandant , MCME
Tirumalgiri , Secunderabad.
4 The Sub-Area Commander
Head Quarter 71 Sub Area C/o.56 APO.
5 The Secretary for School Education
Government of Madhya Pradesh, Bhopal, Madhya Pradesh.
6 The Divisional Superintendent of Education
Bhopal Division , Bhopal , Madhya Pradesh.

7 Corps Commander, Head Quarter 2 Corps, C/o.56 APO

8 Commanding Officer, 451 Armoure Troops Workshop C/o.56 APO

9. Two CD copies